

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

_____)	
UNITED STATES OF AMERICA and)	
THE STATE OF WISCONSIN,)	
)	
Plaintiffs,)	
)	Civil Action No. 10-C-910
v.)	
)	The Honorable William C. Griesbach
NCR CORPORATION, <i>et al.</i>)	
)	
Defendants.)	
_____)	

**UNITED STATES' NOTICE OF LODGING OF PROPOSED CONSENT DECREE
WITH P.H. GLATFELTER COMPANY AND
GEORGIA-PACIFIC CONSUMER PRODUCTS LP**

The United States of America hereby lodges with the Court the proposed Consent Decree that is being filed herewith. The United States and the State of Wisconsin are co-plaintiffs in this action addressing polychlorinated biphenyl contamination at the Lower Fox River and Green Bay Superfund Site under the Comprehensive Environmental Response, Compensation, and Liability Act.

If approved and entered by the Court after a public comment period, this proposed Consent Decree with P.H. Glatfelter Company and Georgia-Pacific Consumer Products LP would end this litigation on agreed terms and conditions. Glatfelter would pay a total of \$20.5 million – with \$20 million applied toward EPA's unreimbursed past response costs and \$500,000 applied toward natural resource damages – and Glatfelter would pay all future EPA and state costs of overseeing the remaining work at the Site. Glatfelter would dismiss its pending appeal of a separate consent decree that requires a prior settler, NCR Corporation, to finish all dredging and sediment cap installation work at the Site. Glatfelter and Georgia-Pacific

also would agree to perform all required long-term monitoring and cap maintenance work under the new settlement.

As specified by Subparagraph 6.h of the proposed Consent Decree, the parties' settlement is expressly conditioned on the Court's willingness to vacate three prior orders in this case, namely: (1) the January 3, 2017, Decision and Order on Plaintiffs' Motion *In Limine* (Dkt. 1167); (2) the February 5, 2018, Decision and Order on Cross Motions for Summary Judgment on Recovery of Response Costs from P.H. Glatfelter Co. (Dkt. 1217); and (3) the Decision and Order Denying Plaintiffs' Motion for Reconsideration (Dkt. 1239). Consistent with other terms of the proposed settlement, *vacatur* would obviate the need for a ruling on the Plaintiffs' pending request that the Court certify an interlocutory appeal on legal issues raised by those prior orders.

Pursuant to 42 U.S.C. § 9622(d)(2) and Department of Justice policy, the United States intends to publish notice of the lodging of this proposed Consent Decree in the Federal Register to commence a 30-day public comment period. The Court should not sign or enter the proposed Consent Decree until the public has had an opportunity to comment and the United States has addressed those comments, if any.

The United States may withhold its consent to the proposed Consent Decree if comments disclose facts or considerations which indicate that the proposed Consent Decree is improper, inappropriate, inadequate, or not in the public interest. At the conclusion of the public comment period, the United States will: (1) file with the Court any written comments received pertaining to the proposed Consent Decree; and (2) either notify the Court of its withdrawal of the proposed Consent Decree, or respond to comments received and seek approval and entry of the Consent Decree.

Paragraph 25 of the proposed Consent Decree requires Glatfelter to make its \$20.5 million payment into a Court Registry Account before the expected conclusion of the public comment period. The United States has therefore filed a separate motion seeking entry of an order allowing that Court Registry Account deposit by Glatfelter.

Respectfully submitted,

For the United States of America

BRUCE S. GELBER
Deputy Assistant Attorney General
U.S. Department of Justice
Environment and Natural Resources Division

Dated: January 3, 2019

s/ *Randall M. Stone*
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CERTIFICATE OF SERVICE

I hereby certify that, on this date, copies of the foregoing Notice of Lodging (and the accompanying proposed Consent Decree) were served on counsel of record by Court's Electronic Case Filing System.

Dated: January 3, 2019

s/ Randall M. Stone